

OAKLEY



CALIFORNIA

City of Oakley
Pre-Approved Accessory Dwelling Units
(ADU)

Request for Proposals & Qualifications

Issued on August 17, 2020

Responses Due by September 16, 2020

Submittals:

City of Oakley | Planning Division
Attn: Kenneth Strelow, Principal Planner
3231 Main Street
Oakley, CA 94561

I. Introduction:

The City of Oakley is situated in eastern Contra Costa County, along the shore of California's fabulous 1,000 mile delta waterways. The City of Oakley incorporated in 1999 to manage growth more effectively, improve community services, and the quality of life.

Oakley's broad appeal is its ability to maintain its small-town charm and character. Residents enjoy a variety of community events throughout the year such as the City's Annual Cityhood Celebration held each July to commemorate its Incorporation, the Heart of Oakley and Harvest Festivals held each September and October at the City's Civic Center Plaza, Movies in the Park, and the Annual Tree-Lighting Ceremony in December to kick-off the holiday spirit in and around the City.

Cultivating a strong sense of community and civic pride are the cornerstones to the City's success. Building on its rich heritage, City leaders understand the importance of balancing growth and preserving a high quality of life for its citizens. The City's motto, "A Place for Families in the Heart of the Delta" is evidenced everywhere you go – the City boasts highly ranked schools, safe neighborhoods, and was also named by "San Francisco Magazine" as one of the best places to raise a family in the East Bay. Oakley's vision is to become a vibrant Delta community, where families live, work, play, shop, and visit.

The City is growing, with a majority of the development being Single-Family homes. As of this year, the City has approximately 4,500 entitled units. A majority of the homes are within the East Cypress Corridor Specific Plan area, which is a primary growth area for the City. The City does have a Certified Housing Element with several properties in the City designated for affordable housing. With that said, the City is focused on attracting new commercial development that will provide for goods and services not available in the City as well as provide for new jobs that will help utilize a workforce that primarily commutes to other areas for employment.

II. Background:

As of January 1, 2020, several amendments to California law regarding the creation of accessory dwelling units (ADU) became effective. These amendments were born through 2019 SB 13, and 2019 ABs 68, 587, 670, 671, and 881. In order to comply with state law, the City of Oakley amended the applicable section of the Zoning Ordinance ([Oakley Municipal Code Section 9.1.1102 Accessory Dwelling Units](#)).

In order to further streamline housing approvals and accelerate housing production, the City of Oakley filed a Planning Grants Program Application (SB 2) for two projects. The project related to this RFP&Q was for "Accessory Dwelling Unit (ADU) Resources." Per the SB 2 Planning Grant Application:

“The City will facilitate ADU production through the development of useful guides, prototypes, and resources that equip homeowners undertaking construction of an ADU and expedite the permitting process. The City will produce or update resources, develop a submittal checklist across all City departments and develop pre-approved construction plans with prototypes of architectural designs that property owners may apply toward ADU construction. Any pre-approved plan developed will allow for by-right construction. The pre-approved plans will also streamline the approval process for an ADU by giving certainty to applicants when using a pre-approved plan.”

Although it may be difficult to quantify the number of new ADUs a successful program may conjure, implementation of such a program will decrease the total cost of an ADU and should in-turn allow for the construction of more ADUs in the City of Oakley. When speaking to most property owners about the challenges to permit and construct an ADU, the overall cost seems to be the most prevalent reason why property owners don't proceed. Although the new regulations exempt certain ADUs from discretionary review and public hearings, there are still several instances where cities maintain a level of discretion, especially with design standards. This program would aim to provide Pre-Approved detached ADUs that would fall under both discretionary and non-discretionary approvals; thereby reducing review time, the need for the applicant to hire an architect or designer, etc., and uncertainty from applicants. Since implementation of the new state laws, the City has seen a noticeable increase in ADU related calls and interests, as well as knowledge of potential customers with the updated code; hence, this program is seen as important for the future of ADUs in Oakley.

III. Scope of Services:

Proposals should be specific and concise, and should conform to the following outline to enable the City to provide consistent review of all proposals:

A. Scope of Work

Proposals should follow the format outlined below. The proposal shall consider all of the requested information as follows:

1. Include a schedule for preparation and preliminary City Council approval of the Pre-Approved Accessory Dwelling Units (ADU).
2. Structural drawings, floor plans and architecture for four (4) different floor plans with up to three architectural styles for each based on the following:
 - a. Detached ADUs of no more than but approximately 800 sf. with only one bedroom (as referenced in OMC Section 9.1.1102(f)(1)(a)(1));

- b. Detached ADUs of no more than, but approximately 850 sf. with only one bedroom (as referenced in OMC Section 9.1.1102(f)(1)(a)(2);
 - c. Detached ADUs of no more than, but approximately 1,000 sf. with more than one bedroom (as referenced in OMC Section 9.1.1102(f)(1)(a)(3); and
 - d. Detached ADUs of no more than, but approximately 1,200 sf. with more than one bedroom (as referenced in OMC Section 9.1.1102(f)(1)(a)(4).
 - e. All the above shall be 1) single story homes of no more than 16 feet in height from adjacent grade at the highest peak, 2) include the use of pitched roofs, 3) be designed consistent with the City of Oakley Residential Design Guidelines, including using architectural styles called out in the guidelines, and 4) have the ability to have body and trim painted to match or compliment the main home, as well as support a variety of roofing materials to match the main home.
3. Prepare a .pdf guide and webpage that walks potential applicants through the process of taking advantage of the Pre-Approved ADU program to make it as easy and informative as possible. The guide should include a summary of how and when each of the above ADUs would apply and use the existing ordinance to clarify other regulations that apply to each, such as setbacks, separate entrances, allowable lot sizes, etc.
 4. Prepare administrative drafts of the plans and guide, drafts after Staff input, and the final draft version of the plans and guide, in compliance with the requirements of state law and the applicable City of Oakley OMC related to ADUs.
 5. Prepare revisions to the administrative draft and draft plans and guide in response to Staff.
 6. Include 1) one “kick-off” meeting with the City Staff; and 2) at least one City Council meeting.
 7. Assist in the preparation of public meeting presentation materials, letters, memos, and other documents as required by City Staff in paper and electronic forms. (City Staff will prepare Staff Reports and Resolutions, and prepare, post, mail, and publish public hearing notices.)
 8. Provide regular progress reports to Staff, and as necessary to communicate updates.

B. Content of Proposal and Statement of Qualifications

1. Please include a detailed estimate and description of each appropriate component of the project and how each task will be completed.
2. Please include a description of the company profile, including the range of the firm’s capabilities and services. In addition, please provide the names of the Project Manager as well as all other personnel who will be specifically assigned to this project, including their qualifications, education, previous representative

experience and their problem solving capabilities. All contemplated sub-consultants to be used during this assignment are required to provide the above requirements as well.

3. Please provide references for similar projects. Please include the telephone number and the name of each reference.
4. Please provide a schedule showing the time required for completion.
5. The City anticipates a total budget not to exceed \$50,000 to complete the scope of work described herein. If the consultant proposes a fee in excess of this estimate, tasks should be identified that can be undertaken by City Staff to reduce the fee to within the City's anticipated budget.

C. Deliverables and Timeline

Deliverables include the draft(s) and final plans and guide listed in the "Scope of Work" section. In addition to the electronic and original copies of all draft and final documents, the consultant shall provide the following: 1) three (3) copies of the project schedule; and 2) ten (10) copies of the administrative draft and draft plans and guide (plans may be in 11" by 17" hard copy size), including one (1) reproducible original and one (1) digital file (at full size and original resolution). All documents and materials shall be prepared in Microsoft Office Word format, except for structural plans, architectural drawings, and the guide which may be in pdf. All changes between versions shall be noted in underscore and strikethrough or "track changes", or through cloud revisions when appropriate. The City anticipates a 4-6 months schedule from the Notice to Proceed to the City Council Public Hearing.

IV. Qualifications Statement Requirements:

Statement shall include the following:

1. Information demonstrating the Consultant's understanding of and approach to the project.
2. Information which demonstrated the Consultant's experience with the preparation of similar projects for other cities or counties.
4. Identification of the personnel proposed on this project including the project manager, qualifications and experience on similar projects.
5. A detailed project schedule for the project including milestones and deliverables.
6. Specific comments on the City's Standard Consultant Services Agreement proposed for this project, a copy of which is attached. Proposals shall identify any exceptions taken by the Consultant regarding the terms, conditions and requirements of the City's Standard Agreement along with an explanation and suggested language for dealing with the exception. Unless exceptions are noted in the proposal, the selected Consultant will be expected to execute the City of Oakley's Standard

Agreement as proposed. The Consultant's proposal will be referenced and included as an exhibit in the final Agreement executed with the City.

V. Selection Process:

Written proposals with qualification statements will be evaluated by the City of Oakley and may include an interview. Staff will make a recommendation on a Consultant to the Oakley City Council for approval and authorization to negotiate and execute an Agreement to provide the requested services. The City reserves the right to reject any and all proposals and to negotiate final contract terms with any selected consultant.

VI. Background Information:

City of Oakley Background Information

The City of Oakley's web site (www.ci.oakley.ca.us) contains additional background information on the City of Oakley, the Oakley General Plan, and the entire Oakley Municipal Code. Here is a direct link to: [Oakley Municipal Code Section 9.1.1102 Accessory Dwelling Units](#).

The adopted City of Oakley Residential Design Guidelines are available here: <http://www.ci.oakley.ca.us/wp-content/uploads/2015/07/Final-Residential-Design-Guideline-1203.pdf>

VII. Qualification Statement Deadline:

Five (5) hard copies of the Proposal with a Statement of Qualifications must be submitted by no later than 5pm on September 16, 2020 to:

City of Oakley | Planning Division
Attn: Kenneth Strelo, Principal Planner
3231 Main Street
Oakley, CA 94561
(925) 625-7036

VIII. Attachments:

1. Standard Short Form Services Agreement

Thank you in advance for your interest and response to the City of Oakley's Request for Proposal and Qualifications.

**SHORT FORM
SERVICES AGREEMENT BETWEEN
THE CITY OF OAKLEY AND _____**

THIS SERVICES AGREEMENT for _____ services is entered into by and between the City of Oakley, a municipal corporation in the State of California (hereinafter referred to as "City") and _____, a _____ (hereinafter referred to as "Contractor") effective as of _____, 20__ ("Effective Date").

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to City the services described in the Scope of Work attached hereto and incorporated herein as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

- 1.1 Term of Services.** The term of this Agreement shall begin on the date first noted above and shall continue until terminated by either party.
- 1.2 Standard of Performance.** Contractor shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged in the general geographical area of the City. Contractor shall prepare all work products required by this Agreement in a substantial, first-class manner and shall conform to the standards of quality normally observed by a person practicing in Contractor's profession.
- 1.3 Assignment of Personnel.** Contractor shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Contractor shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.
- 1.4 Time.** Contractor shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Section 1.1 above and to satisfy Contractor's obligations hereunder.

Section 2. COMPENSATION. City hereby agree to pay Contractor a sum not to exceed the amount described in Exhibit A, attached hereto and incorporated herein. City shall pay Contractor for services rendered pursuant to this Agreement at the time and in the manner set forth herein. These payments shall be the only

payments from City to Contractor for services rendered pursuant to this Agreement. Contractor shall submit invoices to City each month for services provided.

Contractor and City acknowledge and agree that compensation paid by City to Contractor under this Agreement is based upon Contractor's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Contractor. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Contractor and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

2.1 Invoices. Contractor shall submit invoices, not more often than once per quarter during the term of this Agreement. Invoices shall be on Contractor's Letterhead (or formal invoice form) and contain the following information:

- The beginning and ending dates of the billing period;
- A description of services for which payment is requested;
- Amount due;
- The Contractor's signature.

2.2 Payment of Taxes. Contractor is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.

2.3 Payment upon Termination. In the event that the City or Contractor terminates this Agreement pursuant to Section 8, the City shall compensate the Contractor for all amounts due for work satisfactorily completed as of the date of written notice of termination.

2.4 Authorization to Perform Services. The Contractor is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Contractor shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement.

Section 4. RECYCLING REQUIREMENTS. Contractor agrees to comply with all City recycling requirements, and as set forth in the Oakley Municipal Code, including, but not limited to:

- a. Construction and Demolition. Contractor must contact a customer service representative (CSR) at Oakley Disposal Service, Inc. to arrange for service for any and all construction and demolition work to be performed as part of this project unless Contractor has been approved by the City as a “self-hauler” as defined in Oakley Municipal Code §4.20.308. The CSR will ask if the drop box contains recycle material and will direct the Contractor to drop the construction and demolition debris, including dirt and cement, to a permitted processing facility. The Contractor must indicate on their order form, by checking the applicable box, that they need documentation to comply with the Oakley Municipal Code. This documentation must be provided to the City within ten (10) days of receipt of said documentation by Contractor.
- b. Commercial Self-Haul. Business self-haul materials are accepted at various Oakley Disposal Service, Inc. local facilities for recycling and include, but are not limited to, wood, inerts, metals, tires, greenwaste, plastics, cardboard, mattresses, foam padding, propane tanks, e-waste and appliances. Contractor agrees to drop any and all business self-haul materials at a site designated on the website www.cccounty.us/depart/cd/recycle/.
- c. Road Maintenance and Construction Projects. Contractor agrees to recycle greenwaste, asphalt, concrete and metal from any and all road maintenance and construction projects at Oakley Disposal Service, Inc. designated locations.
- d. Office Recyclables. If Contractor has an office, temporary office, or trailer within the City of Oakley, Contractor agrees to recycle all paper, cardboard, bottles, cans, and toner cartridges at Oakley Disposal Service, Inc. designated locations.
- e. Special Waste Materials. Contractor shall dispose of inert materials, including, but not limited to, concrete, asphalt and rubber, at Oakley Disposal Service, Inc. designated locations. Shingles and wood waste shall be diverted to the Recycling Center and Transfer Station (RCTS) located at 3700 Loveridge Road, Pittsburg, CA 94565. Scrap metal shall be dropped off at a large-scale scrap metal recycle facility operating within Contra Costa County which may be found at www.cccrecycle.org.
- f. Universal Waste. Contractor shall dispose of batteries, mercury containing devices and lamps, and certain consumer electronics at a recycling center designated by Oakley Disposal Service, Inc.

Section 5. INSURANCE REQUIREMENTS. Before beginning any work under this Agreement, Contractor, at its own cost and expense, shall procure "occurrence coverage" insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Contractor and its agents, representatives, employees, and subcontractors. Contractor shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects to the City. Contractor shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Contractor's bid. Contractor shall not allow any subcontractor to commence work on any subcontract until Contractor has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to City. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution. Verification of the required insurance is attached hereto and incorporated herein as Exhibit B.

- 5.1 Variation.** The City may approve a variation in the foregoing insurance requirements, upon a determination that the coverages, scope, limits, and forms of such insurance are either not commercially available, or that the City's interests are otherwise fully protected.
- 5.2 Notice of Reduction in Coverage.** In the event that any coverage required by this section is reduced, limited, or materially affected in any other manner, Contractor shall provide written notice to City at Contractor's earliest possible opportunity and in no case later than five calendar days after Contractor is notified of the change in coverage.
- 5.3 Remedies.** In addition to any other remedies City may have if Contractor fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Contractor's breach:
- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
 - Order Contractor to stop work under this Agreement or withhold any payment that becomes due to Contractor hereunder, or both stop work and withhold any payment, until Contractor demonstrates compliance with the requirements hereof; and/or

- Terminate this Agreement.

Section 6. INDEMNIFICATION AND CONTRACTOR'S RESPONSIBILITIES

- 6.1.** Contractor shall, to the fullest extent permitted by law, indemnify, defend (with counsel acceptable to the City) and hold harmless City, and its employees, officials, volunteers and agents ("Indemnified Parties") from and against any and all losses, claims, damages, costs and liability (including but not limited to loss of use, loss of profits or loss of goodwill arising in any manner from the work) arising out of any personal injury, loss of life, damage to property, or any violation of any federal, state, or municipal law or ordinance, arising out of the performance of this Agreement by Contractor, its officers, employees, agents, volunteers, subcontractors or sub-Contractors, excepting only liability arising from the sole negligence, active negligence or intentional misconduct of City.
- 6.2.** In the event that Contractor or any employee, agent, sub-Contractor or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Contractor shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, sub-Contractors or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.
- 6.3.** Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply.
- 6.4.** By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this Section and that it is a material element of consideration, and that these provisions survive the termination of this Agreement.

Section 7. STATUS OF CONTRACTOR.

- 7.1** **Independent Contractor.** At all times during the term of this Agreement, Contractor shall be an independent contractor and shall not be an employee of City. City shall have the right to control

Contractor only insofar as the results of Contractor's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subparagraph 1.3; however, otherwise City shall not have the right to control the means by which Contractor accomplishes services rendered pursuant to this Agreement, Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

- 7.2 Contractor, Not Agent.** Except as City may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

Section 8. LEGAL REQUIREMENTS.

- 8.1 Governing Law.** The laws of the State of California shall govern this Agreement.
- 8.2 Compliance with Applicable Laws.** Contractor and any subcontractors shall comply with all laws applicable to the performance of the work hereunder.
- 8.3 Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Contractor and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.
- 8.4 Licenses and Permits.** Contractor represents and warrants to City that Contractor and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature legally required to practice their respective professions. Contractor represents and warrants to City that Contractor and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition

to the foregoing, Contractor and any subcontractors shall obtain and maintain during the term of this Agreement valid business licenses from City.

- 8.5 Nondiscrimination and Equal Opportunity.** Contractor shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Contractor under this Agreement. Contractor shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Contractor thereby.

Contractor shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

Section 9. TERMINATION AND MODIFICATION.

- 9.1 Termination.** City may cancel this Agreement at any time and without cause upon written notification to Contractor.

Contractor may cancel this Agreement upon 30 days written notice to City and shall include in such notice the reasons for cancellation.

In the event of termination, Contractor shall be entitled to compensation for services performed to the effective date of termination.

- 9.2 Amendments.** The parties may amend this Agreement only by a writing signed by all the parties.

- 9.3 Assignment and Subcontracting.** City and Contractor recognize and agree that this Agreement contemplates personal performance by Contractor and is based upon a determination of Contractor's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Contractor. Contractor may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Contractor shall not subcontract any portion of the performance contemplated and provided for herein,

other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.

9.4 Survival. All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Contractor shall survive the termination of this Agreement.

9.5 Breach by Contractor. If Contractor materially breaches any of the terms of this Agreement, City may immediately terminate the Agreement.

Section 10. KEEPING AND STATUS OF RECORDS.

10.1 Records Created as Part of Contractor's Performance. All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Contractor prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Contractor hereby agrees to deliver those documents to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. City and Contractor agree that, until final approval by City, all data, plans, specifications, reports and other documents are confidential and will not be released to third parties without prior written consent of both parties.

10.2 Contractor's Books and Records. Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Contractor to this Agreement,

10.3 Inspection and Audit of Records. Any records or documents that Section 9.2 of this Agreement requires Contractor to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds TEN THOUSAND DOLLARS (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the

request of City or as part of any audit of City, for a period of three (3) years after final payment under the Agreement.

Section 11 MISCELLANEOUS PROVISIONS.

- 11.1 Venue.** In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Contra Costa or in the United States District Court for the Northern District of California.
- 11.2 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 11.3 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 11.4 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.
- 11.5 Use of Recycled Products.** Contractor shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.
- 11.6 Conflict of Interest.** Contractor may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Contractor in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 et seq.

Contractor shall not employ any official of City in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 et seq.

Contractor hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of the City. If Contractor was an employee, agent, appointee, or official of City in the previous twelve months, Contractor warrants that it did not participate in any manner in the forming of this

Agreement. Contractor understands that, if this Agreement is made in violation of Government Code §1090 et. Seq., the entire Agreement is void and Contractor will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Contractor will be required to reimburse the City for any sums paid to the Contractor. Contractor understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code

§ 1090 and, if applicable, will be disqualified from holding public office in the State of California.

11.7 Inconsistent Terms. If the terms or provisions of this Agreement conflict with or are inconsistent with any term or provision of any attachment or Exhibit attached hereto, then the terms and provisions of this Agreement shall prevail.

11.8 Solicitation. Contractor agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.

11.9 Contract Administration. This Agreement shall be administered by the _____ ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.

11.10 Notices.

Any written notice to Contractor shall be sent to:

Any written notice to City shall be sent to:

City of Oakley
Attn: _____
3231 Main St.
Oakley, CA 94561

11.11 Integration. This Agreement, including the attached exhibits, represents the entire and integrated agreement between City and

Contractor and supersedes all prior negotiations, representations, and agreements, either written or oral.

11.12 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

11.13 Authorized Signature. Each person and party signing this Agreement warrants that he/she has the authority to execute this Agreement on behalf of the principal and that the party will be bound by such signature.

The parties have executed this Agreement as of the Effective Date.

CITY:

CONTRACTOR:

City of Oakley, a municipal corporation
In the State of California

Name (STATE) (ENTITY TYPE)

Bryan H. Montgomery, City Manager

Sign: _____
Name: _____
Title: _____

Attest:

Libby Vreonis, City Clerk

Approved as to Form:

Derek Cole, City Attorney

EXHIBIT A

Scope of Work/Compensation Schedule

Exhibit B

Insurance Requirements

Specific Insurance Requirements and Required Policy Limits

PROFESSIONAL SERVICES CONTRACTS:

Including, but not limited to architects, engineers, consultants, counselors, attorneys and accountants.

Consultant shall procure and maintain for the duration of its contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, employees or subcontractors.

Minimum scope of coverage

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01) covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** Insurance Services Office Form number CA 0001 Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.
3. **Workers’ Compensation** insurance as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.

(Not required if Consultant provides written verification it has no employees)

4. **Professional Liability** (Errors and Omissions) Insurance appropriate to the Consultant’s profession, with limit no less than **\$1,000,000** per occurrence or claim, **\$2,000,000** aggregate. Architects and Engineers coverage shall be endorsed to include contractual liability.

If the Consultant maintains higher limits than the minimums shown above, the Entity requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Entity.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The City, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Consultant including materials, parts or equipment furnished in connection with such work or operations. General liability coverage should be provided in the form of an endorsement to the Consultant's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).

Primary Coverage

For any claims related to this contract, the **Consultant's insurance coverage shall be primary** insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall state that **coverage shall not be canceled, except with notice to the City.**

Waiver of Subrogation

Consultant hereby grants to City a waiver of any right to subrogation which Consultant or any insurer of said Consultant may acquire against the City by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. The City may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City.

Claims Made Policies

If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided **for at least five (5) years after completion of the contract of work.**
3. If coverage is canceled or non-renewed, and not **replaced with another claims-made policy form with a Retroactive Date** prior to the contract effective date, the Consultant must purchase “extended reporting” coverage for a minimum of **five (5) years** after completion of contract work.

Verification of Coverage

Consultant shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant’s obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Subcontractors

Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that City is an additional insured on insurance required from subcontractors.

Special Risks or Circumstances

City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.